

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

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In re:

PROMESA
Title III

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

No. 17 BK 3283-LTS
(Jointly Administered)

THE COMMONWEALTH OF PUERTO RICO
et al.,

Debtors.¹

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THE FINANCIAL OVERSIGHT AND

MANAGEMENT BOARD FOR PUERTO RICO,

Plaintiff,

Adv. Proc. No. 22-00063-LTS

-v-

HON. PEDRO R. PIERLUISI URRUTIA in his

official capacity as Governor of Puerto Rico,

Defendant.

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ORDER GRANTING MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF
CONCERNING (1) THE COURT’S ORDER TO SHOW CAUSE REGARDING DISMISSAL OF
REMAINING CLAIM; AND (2) THE MOTION REQUESTING STAY OF INJUNCTION PREVENTING
THE ENFORCEMENT OF THE PUERTO RICO ACT NO. 41-2022 PENDING APPEAL

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

The Court has received and reviewed the *Motion for Leave to File Amici Curiae Brief Concerning (1) the Court's Order to Show Cause Regarding Dismissal of Remaining Claim; and (2) the Motion Requesting Stay of Injunction Preventing the Enforcement of the Puerto Rico Act Number 41-2022 Pending Appeal* (Docket Entry No. 102 in Adversary Proceeding No. 22-00063) (the "Motion")² jointly filed by the Puerto Rico Retailers Association, Restaurants Association of Puerto Rico, the Puerto Rico Marketing, Industry and Food Distribution Chamber, Puerto Rico Hotel & Tourism Association, Puerto Rico Hospital Association, the Puerto Rico Association of Automobile Distributors and Dealers, Asociación Hecho en Puerto Rico, Inc., the Puerto Rico Chamber of Commerce, the Puerto Rico Manufacturers Association, and the Puerto Rico Builders Association (the "Proposed Amici").³ The Proposed Amici represent that "their members have a strong interest in this case, as they are concerned that Act 41 imposes a host of new costs, requirements, operational burdens, and monetary exposures on its employer members." (Mot. ¶ 9.)

On October 4, 2022, the Court allowed the Proposed Amici to file one amicus brief in connection with the *Financial Oversight and Management Board for Puerto Rico's Motion for Summary Judgment Pursuant to Bankruptcy Rule 7056* (Docket Entry No. 29) (the "Plaintiff's Motion for Summary Judgment"), and *Defendant's Motion for Judgment on the Pleadings* (Docket Entry No. 28) (the "Defendant's Motion for Summary Judgment"). (See *Order Allowing Request to File Amici Curiae Brief* (Docket Entry No. 41).) The Proposed Amici subsequently filed a brief. (See Docket Entry No. 74.)

In the First Circuit, the acceptance of amicus briefs is within the sound discretion of the court. Strasser v. Doorley, 432 F.2d 567, 569 (1st Cir. 1970). Absent joint consent of the parties, a district court "should go slow in accepting, and even slower in inviting, an amicus brief unless, [] a party . . . has a special interest that justifies his having a say, or unless the court feels that existing counsel may need supplementing assistance." Id.

The Court has previously found that the Proposed Amici have a special and particularized interest in the legal issues presented in the Plaintiff's Motion for Summary Judgment and the Defendant's Motion for Summary Judgment. (*Order Allowing Request to File Amici Curiae Brief* at 3.) Accordingly, the Court having found that the Proposed Amici have demonstrated a special and particularized interest in the Show Cause Order and the *Motion Requesting Stay of Injunction Preventing the Enforcement of the Puerto Rico Act Number 41-2022 Pending Appeal* (Docket Entry No. 95), and that no other or further notice is required, it is HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein;

² Unless otherwise noted, all references herein to Docket Entry Nos. are references to Adversary Proceeding No. 22-00063.

³ Capitalized terms not otherwise defined herein, shall have the meaning ascribed to them in the Motion.

2. Leave to file one brief addressing the (i) Show Cause Order; and (ii) *Motion Requesting Stay of Injunction Preventing the Enforcement of the Puerto Rico Act Number 41-2022 Pending Appeal* (Docket Entry No. 95), as amici curiae, is hereby granted;
3. The brief shall not exceed ten (10) pages (exclusive of the cover page, tables of contents and authorities, signature pages, exhibits, and certificate of service);
4. The Proposed Amici shall file the brief by **March 24, 2023**;
5. This Order shall not be construed as providing leave to appear in Court, to propound discovery, or to present evidence; and
6. This Order resolves Docket Entry No. 102.

SO ORDERED.

Dated: March 23, 2023

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge